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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

CENTER FOR BIOLOGICAL DIVERSITY, a  
non-profit corporation,

Plaintiff,

v.

CARLOS M. GUTIERREZ, Secretary of  
Commerce, and NATIONAL MARINE  
FISHERIES SERVICE,

Defendants.

Case No.: C-06-7786-BZ

**NOTICE OF VOLUNTARY DISMISSAL  
[F.R.C.P. 41(a)(1)]**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Fed. R. Civ. Pro. 41(a)(1), Plaintiff Center for Biological Diversity voluntarily dismisses its Complaint against Defendants Carlos M. Gutierrez, Secretary of Commerce, and the National Marine Fisheries Service. Plaintiff's Complaint alleged that Defendants had failed to timely promulgate a proposed regulation regarding the North Pacific right whale in violation of the Endangered Species Act, 16 U.S.C. §§ 1531-1544. On December 27, 2006, Defendants published in

1 the Federal Register the overdue proposed regulation sought by Plaintiff in its Complaint. See 71 Fed.  
2 Reg. 77694 (Endangered And Threatened Species; Proposed Endangered Status for North Pacific Right  
3 Whale). Pursuant to Fed. R. Civ. Pro. 41(a)(1) said dismissal is without prejudice.

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5  
6 DATE: January 1, 2007

Respectfully Submitted,

7 /s/Brendan Cummings

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28 Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on January 1, 2007, I served a true and correct copy of the NOTICE OF VOLUNTARY DISMISSAL filed in this case via electronic mail to

Jimmy A. Rodriguez, Trial Attorney  
U.S. Department of Justice  
P.O. Box 7369  
Washington, D.C. 20044-7369  
Tel: (202) 305-0342  
Fax: (202) 305-0275  
E-mail: [Jimmy.Rodriguez@usdoj.gov](mailto:Jimmy.Rodriguez@usdoj.gov)

I certify under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATE: January 1, 2007

Respectfully Submitted,

/s/Brendan Cummings  
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